

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-680

January 21, 2004

TIME WARNER, INC. AND BEE LINE CABLE
Request for Commission Investigation Into
Central Maine Power Company's Refusal to
Provide Appropriate Services, Rates, Terms
and Conditions to the Cable Companies

ORDER GRANTING
VOLUNTARY DISMISSAL

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

On September 28, 2001, Time Warner, Inc. (Time Warner) and Bee Line Cable TV (Bee Line), collectively referred to as Complainants, filed a complaint with the Commission, pursuant to 35-A M.R.S.A. §§ 1302 and 1303, requesting that the Commission investigate alleged unreasonable acts and discriminatory practices of Central Maine Power Company (CMP) with regard to the rates, terms and conditions of service provided by CMP to the Complainants. Specifically, the Complainants alleged: 1) that the imposition of the SGS rate classification on Complainants' was unreasonable, unjust, and discriminatory; 2) that CMP's metering of the Complainants account was unnecessary, unreasonable, unjust and discriminatory; and 3) CMP's separate account billing of Complainants was unreasonable, unjust, discriminatory and anti-competitive.

On October 4, 2001, the Commission issued a Notice of Complaint and provided CMP with an opportunity to respond to Complainants' allegations. As part of the Notice of Complaint the Commission found that because the complaint was not made by 10 or more persons, it would be treated as a request that the Commission initiate an investigation under 35-A M.R.S.A. § 1303 rather than a complaint under 35-A M.R.S.A. § 1302. On October 18, 2001, CMP filed a Response to the Complaint and on November 1, 2001, the Complainants filed a Reply to CMP's Response.

On July 12, 2002, the Commission issued a Notice of Investigation and Order which granted in part and rejected in part the requests of Time Warner and Bee Line. Specifically, the Commission concluded that it would investigate, in this proceeding, the Cable Companies' request that CMP's metering of the Complainants' accounts were unnecessary, unreasonable, unjust and discriminatory; whether a deemed load profile should be used to establish the load obligations of the Cable Companies' energy suppliers; and whether CMPs' separate account billing of Complainants was unreasonable, unjust, discriminatory and anti-competitive. The Commission found, however, the allegations that the imposition of the SGS rate classification on the Complainants was unreasonable, unjust and discriminatory was without merit therefore, rejected the Complainants request to investigate this matter further. On July 23, 2002,

the Office of the Public Advocate (OPA) filed a petition to intervene in this matter which was granted without objection.

Following the Commission's Notice of Investigation, the Commission Staff and the parties to this matter engaged in a number of technical conference workshops and settlement conferences in the hopes of narrowing the issues in this proceeding. After a number of meetings, the parties concluded that they would not be able to reach an agreement on any factual matters, and therefore, the case would need to be fully litigated. A conference of counsel to set a litigation schedule was initially set for October 3, 2003. At the request of counsel for the Complainants, the conference was postponed until December 19, 2003.

On December 17, 2003, Time Warner and Bee Line, through counsel, filed a request with the Commission that they be permitted to withdraw their complaint without prejudice. Counsel for the Complainants informed the Commission that both CMP and the OPA had been contacted regarding this request and that neither party objected to the granting of the request for dismissal.

Good cause appearing therefore, and there being no objection, the Complainants' request for voluntary dismissal is granted.

Accordingly, we

O R D E R

1. That the complaint of Time Warner, Inc. and Bee Line TV dated September 2, 2001 is dismissed without prejudice; and
2. That the investigation initiated by the Commission on July 12, 2002 be concluded and that this docket be closed.

Dated at Augusta, Maine, this 21st day of January, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.